IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 79 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF WEALTH TAX

Versus

BHAGWANDAS D PATEL

Appearance:

MR AQUIL QURESHI for MANISH R BHATT for Petitioner

MR MR SHAH for JP SHAH for Respondent

CORAM : MR.JUSTICE B.C.PATEL
and
MR.JUSTICE D.A.MEHTA

Date of decision: 12/03/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE B.C.PATEL)

#. This reference arises out of a Wealth Tax Application Nos. 260 to 264/Ahd/1981. Registry is therefore directed to separately number the References i.e. Reference Nos. 79, 79A to D for the respective years.

#. The Revenue is aggrieved by an order made by the Tribunal which set aside the order made by the Commissioner, Wealth Tax and restored the order made by the Wealth Tax Officer for all the relevant years by an order dated 31.5.82. The reference is at the instance of Revenue raising following question.

"Whether on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that the order passed by the Commissioner of Wealth-tax under section 25(2) of the Wealth-tax Act, 1957, was liable to be set aside?"

#. The assessee, holder of the agricultural lands indicated the value of the land for the purpose of wealth tax in his return which was filed for the relevant years and valuations were taken as on 30.6.69 to 30.6.73 for the respective years. It appears that the Commissioner, Wealth Tax arrived at a decision relying on the award made under the Land Acquisition Act for the lands in question. Notification was issued in 1971 under section 4 of the said Act. On the basis of the report submitted by the valuer, in 1976, price of the lands was fixed. Before that, under section 6 of the Land Acquisition Act, notification was issued on 6.4.72. The Ahmedabad Municipal Corporation released the amount of of Rs. 8/per sq. yd. However, the valuation has been based on the report of 1976 in view of the relevant valuation dates. The Wealth Tax Officer who considered the case had no occasion to examine the award made by the Land Acquisition Officer. Considering the comparable instances which are pointed out in para 19 of the paper book price was determined. The lands were sold at a rate of Rs. 7/-, Rs. 10/- and Rs. 14/- per sq. yd. These parcels of the lands were situated very near to the lands of the assessee.

#. In our view, when the Wealth Tax Officer was required to examine the matter, and on examination of comparable instances has arrived at a conclusion then it cannot be said that the decision was perverse. In our view, the Tribunal was justified in setting aside the order made by the Commissioner, Wealth Tax as Commissioner has not considered the matter on merits and has simply relied on the award which was made subsequently. In view of this,

we hold that the Tribunal was right in law in coming to a conclusion that the order passed by the Commissioner, Wealth Tax under section 25(2) of the Wealth Tax Act was liable to be set aside. We answer accordingly in favour of the assessee and against the Revenue.

[B.C. PATEL, J.] [D.A. MEHTA, J.]

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